

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Laura Strauss	Team: Squad #5	CCRB Case #: 202203727	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Wednesday, 06/02/2021 5:17 AM	Location of Incident: Broadway-Lafayette subway station	Precinct: 09	18 Mo. SOL 12/2/2022	EO SOL 12/2/2022	
Date/Time CV Reported Thu, 06/09/2022 12:40 PM	CV Reported At: CCRB	How CV Reported: In-person	Date/Time Received at CCRB Thu, 06/09/2022 12:40 PM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. SGT John Zorrilla	03069	933511	TD 4
2. PO Xavier Reyes	25133	967291	TD 4

Officer(s)	Allegation	Investigator Recommendation
A.SGT John Zorrilla	Force: Sergeant John Zorrilla used physical force against an individual.	
B.SGT John Zorrilla	Abuse: Sergeant John Zorrilla ejected an individual from the subway system.	
C.SGT John Zorrilla	Abuse: Sergeant John Zorrilla ejected § 87(2)(b) from the subway system.	
D.SGT John Zorrilla	Abuse: Sergeant John Zorrilla ejected § 87(2)(b) from the subway system.	
E.SGT John Zorrilla	Abuse: Sergeant John Zorrilla issued a retaliatory summons to § 87(2)(b)	
F.SGT John Zorrilla	Abuse: Sergeant John Zorrilla issued a retaliatory summons to § 87(2)(b)	
G.SGT John Zorrilla	Force: Sergeant John Zorrilla used physical force against § 87(2)(b)	
H.PO Xavier Reyes	Force: Police Officer Xavier Reyes used physical force against § 87(2)(b)	
I.SGT John Zorrilla	Discourtesy: Sergeant John Zorrilla spoke discourteously to § 87(2)(b)	
J.SGT John Zorrilla	Abuse: Sergeant John Zorrilla threatened to arrest § 87(2)(b)	
K.SGT John Zorrilla	Abuse: Sergeant John Zorrilla threatened to arrest § 87(2)(b)	
L.SGT John Zorrilla	Abuse: Sergeant John Zorrilla interfered with § 87(2)(b)'s use of a recording device.	
§ 87(2)(g), § 87(4-b)		

## Case Summary

On June 8, 2022, § 87(2)(b) filed this complaint by making a public comment at a CCRB Board Meeting on behalf of herself and her friend, § 87(2)(b). § 87(2)(b) filed the complaint just over a year after the incident. At the time of the incident, § 87(2)(b) was 17 years old.

On June 2, 2021, at approximately 5:17 a.m., § 87(2)(b) and § 87(2)(b) were in the Broadway-Lafayette Street subway station in Manhattan when they saw that Sergeant John Zorrilla and Police Officer Xavier Reyes of Transit District 4 were ejecting a man from the subway station. § 87(2)(b) began filming and following the officers. Sgt. Zorrilla allegedly kicked the man in his stomach (**Allegation A: Force**, § 87(2)(g)). Sgt. Zorrilla ejected an additional unidentified man from the subway system because he was carrying a trash bag into the station (**Allegation B: Abuse of Authority**, § 87(2)(g)). Sgt. Zorrilla then ejected § 87(2)(b) and § 87(2)(b) from the subway station (**Allegation C: Abuse of Authority**, § 87(2)(g)). **Allegation D: Abuse of Authority**, § 87(2)(g)). As § 87(2)(b) and § 87(2)(b) were leaving the station, they cursed at the officers, at which point Sgt. Zorrilla ran toward them and stopped them (**Allegations E-F: Abuse of Authority**, § 87(2)(g)). Sgt. Zorrilla grabbed § 87(2)(b)'s wrist to stop her, and PO Reyes held § 87(2)(b)'s arm as she tried to walk away (**Allegations G-H: Force**, § 87(2)(g)). Sgt. Zorrilla told § 87(2)(b) that he did not “give a fuck” that § 87(2)(b) was a minor and made additional discourteous remarks to her (**Allegation I: Discourtesy**, § 87(2)(g)). Sgt. Zorrilla threatened to arrest § 87(2)(b) and § 87(2)(b) multiple times (**Allegation J: Abuse of Authority**, § 87(2)(g)). **Allegation K: Abuse of Authority**, § 87(2)(g)). Sgt. Zorrilla told § 87(2)(b) to put her phone down when she lifted her phone to record (**Allegation L: Abuse of Authority**, § 87(2)(g)). § 87(2)(g), § 87(4-b)). § 87(2)(b) and § 87(2)(b) were issued criminal summonses for disorderly conduct and § 87(2)(b) was issued a summons for panhandling in the subway station (BR 01).

The investigation obtained BWC footage recorded by Sgt. Zorrilla and PO Reyes (BR 02-06, summarized at BR 07-08). All references to video evidence below refer to the time stamp in the video player, and not to any on-screen clock embedded in the footage itself.

On June 9, 2022, this case was marked sensitive due to the public nature of § 87(2)(b)'s comments at the Board meeting.

## Findings and Recommendations

### **Allegation (A) Force: Sergeant John Zorrilla used physical force against § 87(2)(b)**

§ 87(2)(b) who was interviewed approximately 13 months after the incident, testified (BR 09) that she saw Sgt. Zorrilla and PO Reyes telling a man on the subway platform that he had to leave the station. She did not see what the man was doing prior to his interaction with the officers. § 87(2)(b) followed Sgt. Zorrilla and PO Reyes up the stairs and recorded them as they led the man out of the station, all the way to the top of the stairs outside of the station. § 87(2)(b) did not recount that Sgt. Zorrilla used any physical force against the man.

§ 87(2)(b) was interviewed approximately 14 months after the incident and had difficulties recalling what happened throughout the entire incident. She testified (BR 10) that there was a homeless man lying down at the bottom of the stairs in the subway station. Sgt. Zorrilla told the homeless man that he could not sleep in the subway station and told him to leave. Sgt. Zorrilla kicked the homeless man's stomach, after which he stood up and left the station.

PO Reyes' BWC footage (BR 02, at 00:20) shows Sgt. Zorrilla and PO Reyes approach a man who is sleeping on a bench on the subway platform. The officers tell the man that he has been sleeping there for hours and needs to leave. No officer makes any physical contact with the man, except when PO Reyes briefly touches his arm. Sgt. Zorrilla does not kick the man at any point.

Sgt. Zorrilla was interviewed approximately 14 months after the incident. His testimony (BR 11) was consistent with the BWC footage. Sgt. Zorrilla denied kicking the first man that he ejected in the stomach.

§ 87(2)(g)

**Allegation (B) Abuse of Authority: Sergeant John Zorrilla ejected § 87(2)(b) from the subway system.**

In PO Reyes' BWC footage (BR 02, at 05:46), Sgt. Zorrilla tells a man who is walking into the subway station while holding a black garbage bag that he needs to go upstairs and that he cannot enter with the bag. The man is holding a MetroCard in his hand. He asks why he cannot take the train and Sgt. Zorrilla replies that it is garbage. The man says, "It's not garbage, it's recyclables," but he complies and exits the subway station. At that point, it was approximately 5:22 a.m. and both the subway station and subway platform were very sparsely populated. A screenshot of the man carrying the garbage bag can be found at (BR 12).

Neither § 87(2)(b) nor § 87(2)(b) testified to seeing Sgt. Zorrilla eject a second man from the subway system.

Sgt. Zorrilla testified that the man was not allowed to carry that type of garbage bag into the subway station, as individuals cannot bring large objects, such as large bags or shopping carts, into the transit system. Sgt. Zorrilla explained that a large bag interferes with people sitting down, and it can prevent people from entering a subway car if the car is crowded. According to Sgt. Zorrilla, the man was violating NYCRR § 1050.9(g)2 – carrying obstructive objects.

Neither Sgt. Zorrilla nor PO Reyes prepared a Transit Ejection Report regarding this incident (BR 13).

No person may carry on or bring to any facility or conveyance any wheeled cart greater than thirty inches in either length or width; or any item that: (1) is so long as to extend outside the window or door of a subway car, bus or other conveyance; (2) constitutes a hazard to the operation of the Authority, interferes with passenger traffic, or impedes service; or (3) constitutes a danger or hazard to other persons. 21 NYCRR § 1050.9(g) (BR 15). Any person who violates any portion of New York Codes, Rules, and Regulations (NYCRR) Part 1050 is subject to ejection from New York City Transit facilities. Patrol Guide Procedure 212-20 (BR 14).

The investigation found that the man's garbage bag did not constitute a hazard, interfere with passenger traffic, or impede service, as it was not excessively large in size and the subway station was sparsely populated at the time. Additionally, though it is possible that an individual holding a garbage bag could act in a way that violated the NYCRR, mere possession of a garbage bag itself does not create an automatic presumption that such a violation will occur. § 87(2)(g)

**Allegation (C) Abuse of Authority: Sergeant John Zorrilla ejected § 87(2)(b) from the subway system.**

**Allegation (D) Abuse of Authority: Sergeant John Zorrilla ejected § 87(2)(b) from the subway system.**

§ 87(2)(b) testified that Sgt. Zorrilla told her that she was not allowed to take the subway after the officers ejected the man who had been sleeping in the subway station. § 87(2)(b) then went to the machine to put money on her MetroCard. Simultaneously, § 87(2)(b) asked a woman for a MetroCard swipe. The woman did not swipe § 87(2)(b) into the subway. Sgt. Zorrilla then became more aggressive and walked toward § 87(2)(b) and § 87(2)(b). He stated that it was illegal and said, “Absolutely not, you guys are not taking the subway.” Sgt. Zorrilla told § 87(2)(b) and § 87(2)(b) to leave. § 87(2)(b) and § 87(2)(b) walked toward the subway stairs to exit the station.

§ 87(2)(b) recounted that she asked the officers if she could go through the turnstiles because the MetroCard machines were not working. An officer replied that if she did not have a MetroCard, she could leave the subway station. A woman then entered the station and § 87(2)(b) asked her if she could give her a few dollars for a MetroCard swipe. Sgt. Zorrilla and PO Reyes then approached her and § 87(2)(b) and told them to leave the subway station.

Neither § 87(2)(b) nor § 87(2)(b) recounted that they cursed at Sgt. Zorrilla or PO Reyes at this point during the incident.

PO Reyes’ and Sgt. Zorrilla’s BWC footage from the first part of the incident (BR 02-03) ends at approximately 5:24 a.m., after they ejected the two men from the subway station. During this first part of the incident recorded on BWC, neither § 87(2)(b) nor § 87(2)(b) curses at the officers. Both officers re-activate their BWCs approximately 45 seconds after their first video ended. There is no audio for the first minute of the footage. In sum, there is about one minute and 45 seconds where no audio was recorded. Sgt. Zorrilla’s BWC footage (BR 05) opens with Sgt. Zorrilla and PO Reyes standing near an MTA booth. § 87(2)(b) walks toward a MetroCard machine and appears to be buying a MetroCard. At 00:21, a woman walks by and § 87(2)(b) points toward the subway turnstiles. Sgt. Zorrilla then approaches the women and appears to say something to them. § 87(2)(b) and § 87(2)(b) appear to respond to Sgt. Zorrilla, very briefly, and then go back to trying to buy a MetroCard. There are no civilians or passersby in the immediate vicinity. At 00:40, it is visible that there are two MTA employees on the other side of the turnstile. At no point do they approach, say anything aloud, or become involved during the incident. At 01:01, once the audio begins, Sgt. Zorrilla tells § 87(2)(b) and § 87(2)(b) that they cannot take the subway. He says that they are acting disorderly and cursing people out. § 87(2)(b) asks who she cursed out and Sgt. Zorrilla replies, “You’re cursing out me. That’s it, that’s good enough.” § 87(2)(b) and § 87(2)(b) ultimately leave the subway station. Later in the incident, after § 87(2)(b) and § 87(2)(b) have already been ejected (at 01:45), § 87(2)(b) tells the officers, “You can go fuck yourself,” and § 87(2)(b) says, “Suck my dick, dickhead.”

Sgt. Zorrilla testified that § 87(2)(b) said that she was going to ask someone to swipe her into the system. Sgt. Zorrilla instructed her that she could not do that because it was considered panhandling. Sgt. Zorrilla told § 87(2)(b) and § 87(2)(b) that they could take the train, but they needed to pay the fare. Sgt. Zorrilla did not recall whether § 87(2)(b) ultimately asked anyone for a swipe. § 87(2)(b) went to the machine to purchase a MetroCard. § 87(2)(b) and § 87(2)(b) then started cursing at Sgt. Zorrilla and using “vulgar” language. Sgt. Zorrilla did not remember the specifics of what they said, but they both “had a very dirty mouth.” Their voices were at a shouting

volume. At some point, § 87(2)(b) called Sgt. Zorrilla a “dickhead” and said, “Fuck you,” and § 87(2)(b) said, “Suck my dick.” Sgt. Zorrilla did not recall at what point during the interaction they made those remarks. Sgt. Zorrilla testified that § 87(2)(b) and § 87(2)(b) were committing disorderly conduct by cursing at him. He noted that there were two MTA cleaners standing a few feet behind the turnstiles, in the paid area, and that they became focused on the ongoing incident between the women and Sgt. Zorrilla. Sgt. Zorrilla specified that this fact satisfied the “public alarm” element of the disorderly conduct statute. Sgt. Zorrilla did not recall whether there were any other civilians around at the time. Sgt. Zorrilla told § 87(2)(b) and § 87(2)(b) that they were acting disorderly and that they needed to exit the station, which was the first time he told them that they had to leave. Sgt. Zorrilla confirmed that he had no other reason for ejecting them other than that they were acting disorderly.

Neither Sgt. Zorrilla nor PO Reyes prepared a Transit Ejection Report regarding this incident (BR 13).

§ 87(2)(g)  
§ 87(2)(g)  
§ 87(2)(b) said it happened before anyone started using profanity and before § 87(2)(b) attempted to solicit a fare from a passerby. § 87(2)(b) said it was after she attempted to solicit a fare. Sgt. Zorrilla said he did not attempt to eject them until after they started cursing at him. He did not have a specific recollection of § 87(2)(b) attempting to solicit a fare, nor did he cite that as a basis for ejecting the women.

No person on or in any facility or conveyance shall conduct themselves in any manner which may cause or tend to cause annoyance, alarm or inconvenience to a reasonable person or create a breach of the peace. 21 NYCRR § 1050.7(i) (BR 17).

No person, unless duly authorized by the authority shall engage in any commercial activity upon any facility or conveyance. Commercial activities include: (1) the advertising, display, sale, lease, offer for sale or lease, or distribution of food, goods, services or entertainment; and (2) the solicitation of money or payment for food, goods, services or entertainment. No person shall panhandle or beg upon any facility or conveyance. 21 NYCRR § 1050.6(b) (BR 16).

Any person who violates any portion of New York Codes, Rules, and Regulations (NYCRR) Part 1050 is subject to ejection from New York City Transit facilities. Patrol Guide Procedure 212-20 (BR 14).

§ 87(2)(g)  
§ 87(2)(g)  
§ 87(2)(g)  
§ 87(2)(b) Merely cursing at or arguing with a police officer does not constitute the type of disorderly behavior outlined in the NYCRR. § 87(2)(b) s behavior did not sufficiently draw the attention of bystanders, nor did it evince an intent to induce bystanders to become involved in the interaction, as her remarks were directed exclusively at the officers. It was approximately 5 a.m., there were no other civilians in the immediate vicinity, and the fact that two MTA workers beyond the turnstiles may have overheard the profanity does not sufficiently support Sgt. Zorrilla’s claim that § 87(2)(b) s conduct caused or tended to cause annoyance, alarm, or inconvenience. § 87(2)(g)

§ 87(2)(g)

However, the testimony and video footage make clear that § 87(2)(b) asked a woman for a MetroCard swipe, in violation of the NYCRR, before Sgt. Zorrilla ejected her.

§ 87(2)(g)

**Allegation (E) Abuse of Authority: Sergeant John Zorrilla issued a retaliatory summons to**

§ 87(2)(b)

**Allegation (F) Abuse of Authority: Sergeant John Zorrilla issued a retaliatory summons to**

§ 87(2)(b)

§ 87(2)(b) testified that she and § 87(2)(b) walked toward the stairwell to exit the station after Sgt. Zorrilla told them that they could not take the subway. As § 87(2)(b) was near the stairs, she told the officers, “Fuck you guys,” and, “Who the hell do you think you are?” § 87(2)(b) was not doing anything physical with her body at the time. Neither § 87(2)(b) nor § 87(2)(b) made any verbal or physical threats to the officers at any point. Sgt. Zorrilla and PO Reyes then got angry and charged toward § 87(2)(b) and § 87(2)(b) ultimately stopping both of them. As noted above, § 87(2)(b) asked a woman for a MetroCard swipe prior to the officers stopping her.

§ 87(2)(b) recounted that she and § 87(2)(b) began walking up the stairs to exit the station. § 87(2)(b) then called Sgt. Zorrilla a “pig” and said to him, “Fuck 12.” § 87(2)(b) did not recall whether § 87(2)(b) cursed at the officers. Sgt. Zorrilla and PO Reyes then ran after § 87(2)(b) and § 87(2)(b)

Sgt. Zorrilla’s BWC footage (BR 03, at 02:54) shows that, as the officers are escorting the first unidentified man upstairs from the platform, § 87(2)(b) follows behind while apparently filming or photographing with her phone. The unidentified man begins speaking to § 87(2)(b) she asks him where the officers are taking him, and Sgt. Zorrilla says that he is going outside of the train station. The sound of a train arriving is audible in the background. § 87(2)(b) says, “Do you wanna take the subway with us? Let’s go, come with us, come with us.” Sgt. Zorrilla tells § 87(2)(b) that she is interfering and to go take her train. A few seconds later, the man continues walking toward the subway exit.

Sgt. Zorrilla’s later BWC footage (BR 05, at 00:55) shows Sgt. Zorrilla directing the women to leave and eventually pushing them toward the exit. § 87(2)(b) and § 87(2)(b) begin walking up the stairs to exit. § 87(2)(b) then says, “You can go fuck yourself, you’re a piece of shit.” At 01:46, the two MTA workers are visible beyond the turnstiles, and they are not looking in the direction of § 87(2)(b) or § 87(2)(b) § 87(2)(b) then says, “Suck my dick, dickhead.” By 01:52, the two women have walked toward the exit such that they disappear from view. § 87(2)(b) then pops back into view and says, “You guys don’t like people that yell at you, acting like a piece of shit.” She does not continue walking toward the officers and appears to turn as if to continue walking back to the exit stairwell. Sgt. Zorrilla then says, “Matter of fact, you know what?” and begins running up the stairs toward § 87(2)(b) and § 87(2)(b) and tells them, “Come here.” At that point, no other civilians or passersby are present. Sgt. Zorrilla and PO Reyes ultimately stop § 87(2)(b) and § 87(2)(b) [see Allegations G-H]. At 04:10, Sgt. Zorrilla tells PO Reyes to issue § 87(2)(b) and § 87(2)(b) criminal summonses for disorderly conduct. At 09:03, Sgt. Zorrilla says, “First of all, you think you can come here, disrespect us, when we’re doing our work, right. Curse us out, call us names, say whatever you want, and you feel you can do whatever you want, it’s your law, and then I gotta let you get on the train? No. Everything that you do has a consequence. So now, you don’t take the train over here, you could walk to another station.” On two occasions, Sgt. Zorrilla tells the young women, “Next time...you show respect” (02:34; 09:57).

Sgt. Zorrilla testified that while he was ejecting man who had been sleeping in the subway station, § 87(2)(b) interfered and told the man that he did not need to go with the officers and that he should go with them. The man did not react to what § 87(2)(b) said, but he stood there. At that point, § 87(2)(b) committed OGA by interfering with the ejection, insofar as Sgt. Zorrilla was doing his job and ejecting someone who committed an MTA violation, and § 87(2)(b) essentially told the man that Sgt. Zorrilla could not enforce those regulations. As discussed in Allegations C-D, Sgt. Zorrilla testified that he ejected § 87(2)(b) and § 87(2)(b) for disorderly conduct because they started cursing at him and using vulgar language while at the MetroCard machines. Their behavior constituted disorderly conduct because there were two MTA cleaners a few feet behind the turnstiles who were focused on what was happening. § 87(2)(b) and § 87(2)(b) then began leaving and walked up the stairs to exit.

Sgt. Zorrilla further recounted that § 87(2)(b) and § 87(2)(b) then came back into the station and continued to curse, taking it “to another level.” At some point, § 87(2)(b) called Sgt. Zorrilla a “dickhead” and said, “Fuck you,” and § 87(2)(b) said, “Suck my dick,” but he did not recall at what point during the interaction they made those remarks. He decided to issue them summonses at that point because he had given them plenty of chances and plenty of time to leave the station. § 87(2)(b) and § 87(2)(b) had committed several crimes and violations, but Sgt. Zorrilla had used his discretion not to take enforcement action. However, they continued to engage in an aggressive, verbal manner by using foul language. They were free to leave the entire time until they came back toward him, at which point Sgt. Zorrilla decided it was enough and decided to issue them summonses.

Upon instruction from Sgt. Zorrilla, PO Reyes issued criminal summonses for disorderly conduct to § 87(2)(b) and § 87(2)(b) in violation New York Penal Law § 240.20 (4). The summonses read, “...the defendant intentionally caused public alarm by intentionally engaging in unreasonable noise in the transit system” (BR 01).

A person is guilty of disorderly conduct when, with an intent to cause public inconvenience, annoyance or alarm, or recklessly creating a risk thereof, she: (1) engages in fighting or in violent, tumultuous, or threatening behavior; (2) makes unreasonable noise; (3) uses abusive or obscene language, or makes an obscene gesture; (4) without lawful authority, disturbs any lawful assembly; (5) obstructs vehicular or pedestrian traffic; (6) congregates with other persons in a public place and refuses to comply with an order to disperse; or (7) creates a hazardous or physically offensive condition. New York Penal Law § 240.20 (BR 19).

Isolated statements using coarse language to criticize the actions of a police officer, unaccompanied by other aggravating circumstances, rarely provide the requisite mens rea – *intent* to cause public harm – required to support a charge of disorderly conduct. Critical to a charge of disorderly conduct is a finding that defendant’s disruptive statements and behavior were of a public rather than an individual dimension. The mere presence of spectators, without evidence that they became verbally or physically involved in the dispute, is not enough to constitute disorderly conduct. *People v. Baker*, 20 N.Y.3d 354 (2013) (BR 20).

It is apparent that PO Reyes incorrectly cited the subsection regarding disturbing a lawful assembly (subsection 4), while his written portion of the summons refers to unreasonable noise (subsection 2). As noted above, Sgt. Zorrilla’s testimony focused upon the women having used abusive and obscene language (subsection 3). § 87(2)(g)

§ 87(2)(b). Solely using profanity toward police officers does not constitute disorderly conduct. § 87(2)(b) and § 87(2)(b)

§ 87(2)(b)'s behavior lacked the requisite public dimension, as no other civilians were in the immediate vicinity at the time, and no one attempted to involve themselves verbally or physically during the incident. Even if the two MTA employees were drawn to observe the incident, that alone does not demonstrate the existence of a public harm element. § 87(2)(g)

Furthermore, though Sgt. Zorrilla testified that he could have issued summons to the women at earlier points in the incident, it was clear that he only decided to actually issue summonses after they used vulgar and insulting language toward him. Sgt. Zorrilla's contemporaneous statements to § 87(2)(b) and § 87(2)(b) about them being disrespectful and the need for them to show him respect, § 87(2)(g)

**Allegation (G) Force: Sergeant John Zorrilla used physical force against § 87(2)(b)**

**Allegation (H) Force: Police Officer Xavier Reyes used physical force against § 87(2)(b)**

§ 87(2)(b) recounted that as the officers charged toward her, she began running backwards up the stairs. Everything happened very quickly. An officer, whom § 87(2)(b) did not recall, pushed her against the handrail that is alongside the subway stairs. The officer made contact with § 87(2)(b)'s upper body and § 87(2)(b)'s lower back hit into the handrail. The officer did not hold her against the handrail; rather, it seemed that the officer was trying to "keep her back" and she just happened to hit the handrail. § 87(2)(b) continued to try to exit the subway station and made it up a few stairs, at which point PO Reyes shoved § 87(2)(b) against the wall and held her arm against the wall. § 87(2)(b) had been approximately a couple feet away from the wall when PO Reyes pushed her against it. PO Reyes used two hands to push § 87(2)(b)'s upper arms against the wall, and at some point, he lowered one hand while continuing to hold § 87(2)(b)'s arm against the wall. PO Reyes held § 87(2)(b) in that position for a few minutes. § 87(2)(b) sustained bruising on her upper arm from when PO Reyes pushed her and held her arm against the wall. Additionally, § 87(2)(b)'s entire body felt achy and in pain after the incident. She did not seek any medical treatment. § 87(2)(b) provided photographs depicting bruising to her right upper arm (BR 21-22).

Sgt. Zorrilla's BWC footage (BR 05, at 01:58) shows Sgt. Zorrilla running up the subway stairs toward § 87(2)(b) and § 87(2)(b) saying, "Come here, come here." § 87(2)(b) and § 87(2)(b) continue to walk toward the subway exit. At 02:02, Sgt. Zorrilla appears to grab § 87(2)(b)'s backpack, then grabs her left wrist. It appears that § 87(2)(b) ends up with her back against the wall due to the momentum of Sgt. Zorrilla grabbing her backpack and wrist. Sgt. Zorrilla does not push § 87(2)(b) against the wall. Sgt. Zorrilla tells § 87(2)(b) to provide her ID. He then switches to holding § 87(2)(b)'s right wrist. Sgt. Zorrilla repeatedly tells § 87(2)(b) to provide her ID and then asks § 87(2)(b) for her ID too. At 02:13, § 87(2)(b) begins walking away toward the sidewalk level. Sgt. Zorrilla runs after her and they get to the top of the subway stairs. Sgt. Zorrilla grabs § 87(2)(b)'s right wrist and repeatedly tells her to provide her ID. § 87(2)(b) says she does not have an ID. Sgt. Zorrilla leads her back down the stairs.

PO Reyes' BWC footage (BR 06, at 00:05) shows another angle, beginning with Sgt. Zorrilla holding onto § 87(2)(b)'s right wrist. Sgt. Zorrilla lets go of § 87(2)(b)'s wrist when he runs after § 87(2)(b). PO Reyes asks § 87(2)(b) for her ID, which she provides. § 87(2)(b) then starts walking away from PO Reyes, toward § 87(2)(b) and says that she wants to make sure that § 87(2)(b) is all right. § 87(2)(b) tells PO Reyes to let go of her, but it is not visible whether he is making any physical contact with her, though she is no longer walking away. PO Reyes does not push § 87(2)(b) against a wall.



Sgt. Zorrilla's testimony was generally consistent with the BWC footage. He recounted that he told § 87(2)(b) and § 87(2)(b) "Come here, give me your ID," after which § 87(2)(b) took a few steps backwards. He then grabbed her wrist to let her know that she was not free to go. Sgt. Zorrilla denied moving § 87(2)(b) toward the wall and denied pushing her against the wall. All of the movements were made by § 87(2)(b) after Sgt. Zorrilla grabbed her wrist. § 87(2)(b) then then tried to run away, so Sgt. Zorrilla went after her and detained her. Sgt. Zorrilla could not see whether PO Reyes had any physical interaction with § 87(2)(b) while he was dealing with § 87(2)(b).

It was not necessary to interview PO Reyes to reach dispositions for these allegations.

The investigation determined that PO Reyes grabbed § 87(2)(b)'s arm at the point that she started walking away, evidenced by the fact that § 87(2)(b) stopped walking away toward § 87(2)(b) at the exact point that she told PO Reyes to let her go in the footage. Given that Sgt. Zorrilla solely grabbed § 87(2)(b)'s wrists and that § 87(2)(b) stated that she sustained the bruising due to PO Reyes' actions, the evidence indicates that it was most likely PO Reyes' grasp that caused bruising to § 87(2)(b)'s upper arm.

Officers may use force when it is reasonable to place a person in custody, to ensure the safety of themselves, and to protect other officers. Any use of force must be reasonable under the circumstances and not excessive. In determining whether the use of force is reasonable, relevant factors include the nature and severity of the crime, the actions taken by the subject, the immediacy of the perceived threat or harm to officers, whether the subject is actively resisting custody, and whether the subject is attempting to evade arrest by flight. Patrol Guide Procedure 221-01 (BR 23).

At the point that Sgt. Zorrilla attempted to stop § 87(2)(b) he repeatedly told her, "Come here," and she continued to walk toward the subway exit. § 87(2)(g)

Additionally, it is evident that PO Reyes did not shove § 87(2)(b) against the wall as she alleged. When PO Reyes grabbed § 87(2)(b)'s arm, Sgt. Zorrilla had already made the decision to stop her, and she was clearly trying to walk away. § 87(2)(g)

**Allegation (I) Discourtesy: Sergeant John Zorrilla spoke discourteously to § 87(2)(b)**

§ 87(2)(b) testified that Sgt. Zorrilla made various rude remarks to her and § 87(2)(b) while PO Reyes wrote them summonses, such as calling them "stupid" and saying, "Who the hell does this?" "This is what you get," and, "You think you guys are so smart." § 87(2)(b) believed that Sgt. Zorrilla also used profanity at some point, but she did not recall what he said.

§ 87(2)(b) testified that both Sgt. Zorrilla and PO Reyes were rude throughout the interaction, but she could not recount any specific statements they made.

Sgt. Zorrilla's BWC footage (BR 05, at 02:03) shows Sgt. Zorrilla repeatedly asking § 87(2)(b) and § 87(2)(b) for their IDs, which they do not immediately provide. At 02:11, § 87(2)(b) says that § 87(2)(b) is a minor and Sgt. Zorrilla replies, "I don't give a fuck." At 10:31, § 87(2)(b) asks Sgt. Zorrilla if he is going to harass more homeless people. He replies, "At least I got a job." At

10:52, § 87(2)(b) sarcastically says that she is glad to walk [to the next subway station] because she can use some exercise. Sgt. Zorrilla replies, “Yes you do.”

Sgt. Zorrilla testified that he told § 87(2)(b) “I don’t give a fuck,” because it was in the “heat of the moment.” At that point, it had gotten a little chaotic because he was trying to obtain § 87(2)(b)s and § 87(2)(b)s IDs and provide instructions. Sgt. Zorrilla told § 87(2)(b) “At least I got a job,” because she started engaging in conversation and was being sarcastic, so Sgt. Zorrilla followed her lead and was responding to her in kind. Sgt. Zorrilla did not intend to convey anything about § 87(2)(b) not having a job. Sgt. Zorrilla told § 87(2)(b) “Yes you do,” after she said she could use some exercise. Sgt. Zorrilla testified that it is good to exercise to keep oneself healthy, especially when someone is young. He was confirming to her that it was a good idea to get more exercise.

The NYPD is committed to accomplishing its mission of protecting the lives and property of all citizens of New York City by treating every citizen with compassion, courtesy, professionalism, and respect. Officers must “maintain a higher standard of integrity than is generally expected of others.” Patrol Guide Procedure 200-02 (BR 24).

§ 87(2)(g). Although Sgt. Zorrilla maintained that he said the other remarks because he was responding in kind to § 87(2)(b)s sarcasm and because he was informing § 87(2)(b) about the importance of exercise, § 87(2)(g).  
§ 87(2)(g).  
§ 87(2)(g).

**Allegation (J) Abuse of Authority: Sergeant John Zorrilla threatened to arrest § 87(2)(b)**  
**Allegation (K) Abuse of Authority: Sergeant John Zorrilla threatened to arrest § 87(2)(b)**  
§ 87(2)(b)

§ 87(2)(b) testified that she lifted up her phone to record as she and § 87(2)(b) they sat on the stairs waiting for their summonses. Sgt. Zorrilla then took his handcuffs out and walked toward her, and she lowered her phone (see Allegation L). § 87(2)(b) interpreted Sgt. Zorrilla taking out his handcuffs as an indication that he would arrest her if she continued to record. She did not recount any other instances of Sgt. Zorrilla saying or indicating that she or § 87(2)(b) could be arrested or taken to the stationhouse.

§ 87(2)(b) initially recounted that Sgt. Zorrilla did not say anything about arresting her or taking her to the stationhouse. She then stated that Sgt. Zorrilla did say something to her and § 87(2)(b) about arresting them, but she did not recall what he said. At some point, Sgt. Zorrilla took out his handcuffs and showed them to her and § 87(2)(b).

In Sgt. Zorrilla’s BWC footage (BR 05, at 02:44), Sgt. Zorrilla tells PO Reyes to write a ticket for § 87(2)(b). § 87(2)(b) says that § 87(2)(b) is not getting a ticket. Sgt. Zorrilla replies, “Shut up, before I put you in handcuffs.” At that point, § 87(2)(b) has already given her ID to PO Reyes. At 03:05, § 87(2)(b) says that PO Reyes is stealing her ID. Sgt. Zorrilla replies, “Just be quiet, get your summons so you could be out of here before I put you in handcuffs, take you to the stationhouse, and you get your ticket over there, before I put you through for [disorderly conduct].” At 03:35, Sgt. Zorrilla begins twirling his handcuffs in his hand. At 04:30, § 87(2)(b) holds up her phone, as if to record, and Sgt. Zorrilla tells her to put her phone down. Sgt. Zorrilla then continues jangling the handcuffs in his hand (see alternate view in PO Reyes’ BWC footage – BR 06, at 02:47). At 20:46, PO Reyes asks § 87(2)(b) for her height and she says that she does not know it. § 87(2)(b)

sarcastically says six feet and § 87(2)(b) then says 5'5". Sgt. Zorrilla says, "Stop playing games, let him write the summons, if you want to play games, I'll bring you to the stationhouse."

Sgt. Zorrilla testified that he told § 87(2)(b) and § 87(2)(b) that he could arrest them or take them to the stationhouse numerous times, and that he did so in order to gain compliance. Officers have the general authority to issue summonses at the stationhouse if it becomes unsafe to issue a summons in the field or if they are not able to gain compliance from the civilian to whom the summons is being issued. A summons is issued in lieu of an arrest, and therefore officers can detain and transport a civilian to the stationhouse in order to issue the summons there. Sgt. Zorrilla could have taken § 87(2)(b) and § 87(2)(b) to the stationhouse if he wanted to, but he chose to use discretion to issue them summonses on scene. He explained that he was not threatening them with his remarks. Instead, he was giving them instructions and was telling them what he was capable of doing. If he took them to the stationhouse, there would not have been any additional charges beyond those for which they were receiving the summonses. While § 87(2)(b) and § 87(2)(b) were sitting on the stairs, Sgt. Zorrilla did not have any safety concerns about them because he had enough space. They remained seated on the stairs and did not get up.

Sgt. Zorrilla initially did not recall telling § 87(2)(b) "Shut up before I put you in handcuffs." After viewing his BWC footage, he explained that he made that statement because § 87(2)(b)'s continuing remarks were escalating the situation and she was the one causing all the aggression. He was trying to achieve compliance and was warning her what could happen if she did not comply. Sgt. Zorrilla believed confirmed that he said, "Just be quiet, get your summons so you could be out of here before I put you in handcuffs, take you to the stationhouse, and you get your ticket over there, before I put you through for [disorderly conduct]." He made that statement because § 87(2)(b) was not complying with providing her information to PO Reyes and she was prolonging the interaction. Sgt. Zorrilla told § 87(2)(b) "Stop playing games, let him write the summons, if you want to play games, I'll bring you to the stationhouse," because she was prolonging the interaction and Sgt. Zorrilla wanted her to comply so she could get her summons and leave. Sgt. Zorrilla recounted that he took out his handcuffs and started playing with them while § 87(2)(b) and § 87(2)(b) were sitting on the steps to show them that he was serious when he told them that he could lock them up or put them in handcuffs.

§ 87(2)(g)

§ 87(2)(g) Sgt.  
Zorrilla's claim that he could have taken § 87(2)(b) back to the stationhouse for safety purposes or if he could not gain compliance was not consistent with what was happening when he made those threats – as § 87(2)(b) had already provided her ID, Sgt. Zorrilla did not have any safety concerns about § 87(2)(b) at that point, and the threats themselves were about telling her to be quiet. § 87(2)(g)

§ 87(2)(g)  
(2)  
(5)  
§ 87(2)(g)

Sgt. Zorrilla told § 87(2)(b) "Stop playing games, let him write the summons, if you want to play games, I'll bring you to the stationhouse," after she did not immediately provide information to PO Reyes as he was writing the summons. § 87(2)(g)

§ 87(2)(g)  
§ 87(2)(g)  
§ 87(2)(g)



## Civilian and Officer CCRB Histories

- This is the first CCRB complaint to which § 87(2)(b) and § 87(2)(b) have been a party (BR 26-27).
- Sgt. Zorrilla has been a member of the NYPD for 19 years and has been a subject in 14 complaints and 62 allegations, six of which were substantiated:
  - 201507072 involved a substantiated allegation of interference with recording against Sgt. Zorrilla. The Board recommended Command Discipline B and the NYPD did not impose any discipline.
  - 201509988 involved substantiated allegations of force (pepper spray) and retaliatory arrest against Sgt. Zorrilla. The Board recommended Command Discipline B and the NYPD imposed Command Discipline B.
  - § 87(2)(g)
  - 202003090 involved a substantiated allegation of threat of removal to hospital against Sgt. Zorrilla. The Board recommended Command Discipline B and the NYPD did not impose any discipline.
  - § 87(2)(g)
  - § 87(2)(g)
  - 
  - In 202204460, Sgt. Zorrilla ejected a woman who had been sleeping in the subway station and allegedly threatened her with a Taser and used force against her.
- PO Reyes has been a member of the NYPD for three years and has been a subject in two complaints and three allegations, none of which were substantiated. § 87(2)(g)
- § 87(2)(g)

## Mediation, Civil, and Criminal Histories

- This case was not suitable for mediation.
- As of August 30, 2022, the NYC Comptroller's Office has no record of a Notice of Claim being filed regarding this complaint (BR 28).
- § 87(2)(b)

Squad: 5

